

**BOARD OF APPEALS CASE NO. 4958**

**BEFORE THE**

**APPLICANT: Tina Janouris**

**ZONING HEARING EXAMINER**

**REQUEST: Variance to disturb the  
Natural Resource District and construct an  
in-ground swimming pool,  
2615 Smallwood Drive, Abingdon**

**OF HARFORD COUNTY**

**Hearing Advertised**

**Aegis: 8/11/99 & 8/18/99**

**Record: 8/13/99 & 8/20/99**

**HEARING DATE: October 6, 1999**

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### **ZONING HEARING EXAMINER'S DECISION**

The Applicant, Tina Janouris, appeared before the Hearing Examiner requesting a variance to Section 267-41(D)(5)(d) and (6) of the Harford County Code, to disturb the NRD District in an R1/COS District.

The subject parcel is located at 2615 Smallwood Drive in the First Election District. The parcel is identified as Parcel No. 423, in Grid 3-F, on Tax Map 56. The parcel contains .184 acres, more or less, all of which is zoned R1/COS/NRD.

Ms. Tina Janouris appeared and testified the subject parcel is improved by a single-family dwelling with an attached two-car garage and a rear deck. The Applicant said that she is requesting a variance to disturb a Natural Resource District in order to construct an in-ground swimming pool with dimensions of 16 feet by 34 feet. The witness said that portions of the pool and deck will encroach into the Natural Resource District, as shown on the subdivision plat from 14 feet on one end to 18 feet on the other end of the proposed pool. The witness said she did not believe the encroachment would adversely impact the Natural Resource District as shown on the subdivision plat because the area is relatively flat and the slope on the Natural Resource District will not be disturbed. Ms. Janouris said she did not feel the variance would be detrimental to adjacent properties because the homeowners association has approved the pool and both neighbors have indicated their support for the request.

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Mr. Moe Davenport, Chief of Development for the Department of Planning and Zoning appeared and testified that the area where the Applicant proposes the encroachment was disturbed during construction of the dwelling and that the Applicant will not disturb the slope to the rear of the property. Mr. Davenport went on to testify that the Applicant is able to meet all Code requirements for the pool except the Natural Resource District area is recorded on the plat. Mr. Davenport said that comments were requested from the Harford Soil Conservation District and the Maryland Department of the Environment and that no comments have been received; therefore, he must conclude that they do not wish to comment on the application.

No protestants appeared in opposition to the Applicant's request.

### **CONCLUSION:**

The Applicant is requesting a variance to Section 267-41(D)(5)(d) and (6) of the Harford County Code, to disturb the Natural Resource District in order to install an in-ground swimming pool.

Section 267-41(D)(5)(d) provides:

"Any land in excess of twenty-five-percent slope for an area of forty thousand (40,000) square feet or more shall not be cleared of natural ground cover or vegetation in preparation for development, except for necessary roads and utilities. Not more than thirty percent (30%) of any land in excess of fifteen-percent slope and less than twenty-five-percent slope shall be cleared of natural ground cover or vegetation in preparation for development."

Section 267-41(D)(6) allows the Board to grant variances to Section 267-41(D)(5) and provides:

"Variances. The Board may grant a variance to Subsection D(3), (4) or (5) of the Natural Resources District regulations upon a finding by the Board that the proposed development will not adversely affect the Natural Resources District. Prior to rendering approval, the Board shall request advisory comments from the Zoning Administrator, the Soil Conservation Service and the Department of Natural Resources."

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The uncontradicted testimony of the Applicant, as well as Mr. Davenport, Chief of Development for the Department of Planning and Zoning, was that the Applicant's proposed encroachment will not reach the steep slopes as shown on numerous photographs entered into evidence. Mr. Davenport said that comments were requested from the Soil Conservation Service and the Department of Natural Resources and that no comments were received, from which he must conclude that they are not opposed to the Applicant's request.

It is the finding of the Hearing Examiner that approval of the requested variance to encroach from 14 feet to 18 feet into the Natural Resource District will not adversely affect the Natural Resource District because the area of encroachment is relatively flat and does not reach the steep slopes.

The variance shall be subject to the following conditions:

1. That the Applicant shall obtain all necessary permits and inspections for the pool, concrete apron and fence.
2. That at the time of permit application, the Applicant shall submit a landscaping plan for the area around the pool. The landscaping materials shall include ground cover and shrubbery. The landscaping plan must be approved by the Department of Planning and Zoning.

Date OCTOBER 29, 1999

  
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L. A. Hinderhofer  
Zoning Hearing Examiner